

REMARKS

Reconsideration and allowance of the above identified patent application are hereby requested. Claims 9, 11-13, 15, 17, 18, 27, 29-31, 33, 35, 36, and 47-53 are now in the application with claims 9, 27, and 47 being independent. Claims 9, 27, and 47 have been amended. The Office's rejections are respectfully traversed.

Rejections Under 35 U.S.C. §§101 and 112

Claims 9, 11-13, 15, 17, 18, 27, 29-31, 33, 35, 36 and 47-53 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 9, 11-13, 15, 17, 18, 27, 29-31, 33, 35, 36 and 47-53 also stand rejected under 35 U.S.C. 112, first paragraph as allegedly failing to comply with the written description requirement.

The Office (Action of May 16, 2007 at page 7) asserts that "Applicant has not responded to the 35 USC 112 and 101 rejections made by the Examiner in the Remarks of 4/11/07."

It is respectfully noted that the rejections under §§101 and 112 were withdrawn prior to the amendment and request for continued examination were submitted on April 11, 2007. In withdrawing the rejections, the Office (Advisory Action of March 26, 2007 at page 2) stated (underlining added for emphasis) "Applicant's arguments regarding the 35 USC 112 and 35 USC 101 rejections have been fully considered and were found to be persuasive. These rejections have been removed."

Claims 47-53, which were added in the amendment of April 11, 2007, include subject matter similar to that recited in claims 9, 11, 12, 15, 17, and 18. Therefore, with respect to claims 47-53, the rejections under §§101 and 112 also should be withdrawn.

Rejection Under 35 U.S.C. §103

Claims 9, 11-13, 15, 17, 18, 27, 29-31, 33, 35, 36 and 47-53 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,990,653 to Burd et al. in view of U.S. Patent Application Publication No. 2002/0021758A1 to Chui. The Office's rejections are respectfully traversed.

Claim 9 recites (underlining added for emphasis) "A computer implemented method of associating information received by a client from a server with an object, comprising: locating, at the client, a start identifier and an end identifier in the information received from the server, wherein the end identifier corresponds to the start identifier; identifying, at the client, a first object associated with at least one of the start identifier and the end identifier, wherein the first object comprises server side code; and associating, at the client, an item of information appearing between the start identifier and the end identifier with the first object, wherein the item of information comprises a result generated by the server in accordance with the first object."

The Office (Action of May 16, 2007 at pages 4-5) asserts that Burd et al. teach (underlining added for emphasis)...

identifying a first object associated with at least one of the start identifier and the end identifier, wherein the first object comprises server side code (col. 3, lines 1-40, col. 8, lines 24-57);

Burd et al. fail to disclose this subject matter. Further, the Office does not assert that Burd et al. teach performing the recited subject matter at the client, as is claimed. Burd et al. is directed to class creation at a server, not at a client. Therefore, Burd et al. do not disclose, teach, or suggest performing any of the recited subject matter at a client.

Fig. 4 depicts a file 400 that the Office (Action of May 16, 2007 at page 4) asserts represents information received from the server that includes a start identifier and an end identifier. Specifically, the Office (*Id.*) asserts that the tags (e.g., items 2, 3, 10, 11, 12, 19, 20, 21, etc.) included in the file 400 represent start identifiers and end identifiers. The Office (*Id.* at page 5) also asserts that Col. 3, lines 1-40 and Col. 8, lines 24-57 of Burd et al. disclose identifying a first object that comprises server side code and is associated with at least one of the start identifier and the end identifier. With respect to Col. 3, lines 1-40, Burd et al. do not disclose either a start identifier or an end identifier.

Col. 8, lines 24-57 of Burd et al. disclose including <html> and <script> tags in the file 400 to indicate an HTML file and to define code declaration blocks, respectively. Nonetheless, Burd et al. (*Id.*) do not disclose identifying a first object associated with at least one of the start identifier and the end identifier, wherein the first object comprises server side code, as is claimed. Burd et al. (Col. 8, lines 37-57) teach that only a “straightforward ‘write’ command” is used to render the HTML code and that <script> tags define code declaration blocks. Therefore, Burd et al. (*Id.*) do not disclose, teach, or suggest identifying a first object associated with at least one of the start identifier and the end identifier, wherein the first object comprises server side

code. Moreover, Burd et al. do not disclose performing the identifying at the client, as is claimed.

Additionally, claim 9 has been amended to further clarify the claimed subject matter. Burd et al. fail to disclose associating, at the client, an item of information appearing between the start identifier and the end identifier with the first object, wherein the item of information comprises a result generated by the server in accordance with the first object.

The Office (Action of May 16, 2007 at page 5) asserts that Burd et al. teach (underlining added for emphasis)...

associating an item of information appearing between the start identifier and the end identifier with the first object (the code between the start and end identifiers/tags) (Fig. 4, items 2, 3, 10, 11, 12, 19, 20, 21, col. 8, lines 24-57, etc.).

Burd et al. fail to disclose this subject matter.

With respect to Fig. 4, Burd et al. do not disclose associating information appearing between start and end identifiers with a first object – the first object comprising server side code. Rather, Fig. 4 merely depicts a file 400 and does not identify any association with an object comprising server side code.

Further, as discussed above, Burd et al. (Col. 8, lines 24-57) disclose including `<html>` and `<script>` tags in the file 400 to indicate an HTML file and to define code declaration blocks, respectively. However, Burd et al. (*Id.*) do not disclose, teach, or suggest associating an item of information appearing between such tags with a first object that comprises server side code. Additionally, Burd et al. also fail to disclose, teach, or suggest that the item information

appearing between the start and end identifiers comprises a result generated by the server in accordance with the first object. Rather, Burd et al. (*Id.*) disclose...

In the second line, <html> is a standard HTML starting tag, which is written to the source code file as a literal text such that no additional processing takes place on the information in order to render the resulting HTML code other than a straightforward "write" command.

Thus, Burd et al. do not teach that the information appearing between the HTML tags comprises a result generated by the server in accordance with the first object. Further, with respect to code declaration blocks, Burd et al. (*Id.*) disclose (underlining added for emphasis)...

Generally, code declaration blocks define page objects and control object member variables and methods that are executed on the server.

Thus, Burd et al. do not teach that the information appearing between script tags defining a code declaration block comprises a result generated by the server in accordance with the first object. Therefore, Burd et al. also fail to disclose, teach, or suggest associating, at the client, an item of information appearing between the start identifier and the end identifier with the first object, wherein the item of information comprises a result generated by the server in accordance with the first object, as is claimed.

Moreover, Chui fails to cure the deficiencies of Burd et al. The Office (Action of May 16, 2007 at page 5) asserts that (underlining added for emphasis)...

Chui teaches a downloading an html file to the client and at the client, locating html tags and identifying objects that are executed on the client computer ([0113] and [0114]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burd with Chui because downloading the html file, identifying and using the contents on the client side would allow for

local caching, reusability, in addition to automatic invocation and execution on the client computer ([0057], [0014]).

Chui, however, fails to disclose the claimed subject matter.

Chui (Abstract) is directed to (underlining added for emphasis) “A method and apparatus for displaying images.” Chui does not disclose identifying, at the client, a first object associated with at least one of the start identifier and the end identifier, wherein the first object comprises server side code. Chui (para. [0113]) discloses (underlining added for emphasis)...

In one embodiment, each image file 190 is an html file or similarly formatted web page that contains a link 198, such as an object tag or applet tag, to an applet 199 (e.g., a Java.TM. applet) that is automatically invoked when the file is downloaded to a client computer. The header 194 and a selected one of the base images 196 are used as data input to the embedded applet 199, which decodes and renders the image on the display of a user's personal digital assistant or computer.

Further, Chui (para. [0114]) discloses an alternate embodiment using a plug-in (underlining added for emphasis)...

The image file 210 is downloaded along with an html or similarly formatted web page that includes an embed tag or object tag that points to the image file. As a result, when the web page is downloaded to a client workstation, the plug-in application is automatically invoked and executed by the client computer's.

Thus, Chui discloses executing an applet (or plug-in) that is invoked to decode and render an image when downloaded to a client computer. However, Chui does not disclose, teach, or suggest that “an object tag or applet tag” is a start identifier or an end identifier. To the contrary, Chui discloses that a single tag points to an applet (or image file). A single tag is not equivalent to a start identifier or an end identifier.

Further, Chui does not disclose that the first object comprises server side code. Rather, Chui discloses an embedded applet that is automatically invoked when the html file is downloaded to a client computer. The embedded applet (as opposed to a servlet) is executed on the client computer to render an image on the display of the client computer. An applet that is executed on the client computer is not equivalent to server side code. With respect to the alternate embodiment, Chui also teaches that the plug-in is invoked and executed by the client computer. A plug-in that is executed on the client computer also is not equivalent to server side code. Therefore, Chui also fails to disclose, teach, or suggest identifying, at the client, a first object associated with at least one of the start identifier and the end identifier, wherein the first object comprises server side code.

Chui (para. [0057]) also describes local caching and reuse of data received from a server. Further, Chui (para. [0014]) describes FIG. 6A, which depicts generating a compressed image file. Neither of these cited portions of Chui disclose identifying an object associated with a start identifier or an end identifier.

Additionally, Chui does not disclose associating an item of information appearing between the start identifier and the end identifier with the first object, wherein the item of information comprises a result generated by the server in accordance with the first object.

As discussed above, Chui (paras. [0113] and [0114]) fails to disclose a start identifier and an end identifier. Thus, Chui also does not disclose an item of information appearing between the start identifier and the end identifier. Moreover, Chui does not disclose such an item of information that comprises a result generated by a server in accordance with a first object – the

first object comprising server side code. To the contrary, Chui (para. [0113]) discloses the operation of an embedded applet (underlining added for emphasis) "...that is automatically invoked when the file is downloaded to a client computer." Further, Chui (para. [0114]) discloses the operation of a browser plug-in application that (underlining added for emphasis) "...is automatically invoked and executed by the client computer's." Thus, the cited portions of Chui do not disclose generating results at a server. Further, Chui does not disclose generating results in accordance with server side code. Thus, Chui does not disclose, teach, or suggest associating, at the client, an item of information appearing between the start identifier and the end identifier with the first object, wherein the item of information comprises a result generated by the server in accordance with the first object, as is claimed.

Moreover, a proper motivation to combine Burd et al. and Chui has not been established. The Office (Action of May 16, 2007 at page 5) asserts that (underlining added for emphasis)...

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burd with Chui because downloading the html file, identifying and using the contents on the client side would allow for local caching, reusability, in addition to automatic invocation and execution on the client computer ([0057], [0014]).

However, Burd et al. (Col. 2, line 66 through Col. 3, line 5) disclose (underlining added for emphasis)...

The present invention relates to a code generation method and apparatus to create an intermediate language or source code file from a server-side resource, the source code file then being compiled into an executable class. The executable

class allows for rapid generation of web page control objects that perform server-side functions, including the rendering of client responses.

Further, Burd et al. (Col. 3, lines 12-18) disclose (underlining added for emphasis)...

In accordance with preferred aspects, the present invention relates to a method of creating a class in a server computer system memory. The class is used by the server computer system to create server-side objects for dynamically rendering web page content and the web page content is delivered to a client-side computer system and displayed as a web page on the client computer system.

Thus, Burd et al. teach performing operations at a server to render web page content for delivery to a client. Modifying Burd et al. based on Chui, as the Office proposes, would render Burd et al. unsatisfactory for its intended purpose. By “downloading the html file” and “identifying and using the contents on the client side”, Burd et al. would not be creating an intermediate language or source code file from a server-side resource, which can be compiled into an executable class – the disclosed purpose of the invention. In fact, modifying Burd et al. to perform the server side functions at the client would entirely eliminate the advantages Burd et al. purports to provide, including the rapid generation of web page control objects that perform server-side functions.

MPEP § 2143.01 states (underlining added for emphasis) “If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).” The proposed modifications would render Burd et al. unsatisfactory for its intended purpose, such as creating a class in a server computer system memory. Thus, there is no suggestion or motivation to make the proposed modification, and hence no motivation to make the proposed combination.

For at least these reasons, claim 9 is allowable over Burd et al. in view of Chui. Claims 11-13, 15, 17, and 18 depend from claim 9. Therefore, dependent claims 11-13, 15, 17, and 18 are allowable for at least the reasons discussed with respect to claim 9.

Additionally, claims 27 and 47 include subject matter similar to that discussed with respect to claim 9. Therefore, independent claims 27 and 47 are allowable over Burd et al. in view of Chui for at least the reasons discussed with respect to claim 9. Claims 29-31, 33, 35, and 36 depend from claim 27, and are thus allowable based at least on claim 27. Claims 48-53 depend from claim 47 and are thus allowable based at least on claim 47.

Furthermore, claim 13 recites (underlining added for emphasis) "The method of claim 12 wherein the start identifier comprises an even number and the end identifier comprises an odd number, wherein the value of the end identifier is greater than the value of the start identifier."

The Office (Action of May 16, 2007 at page 6) concedes that (underlining added for emphasis) "As to claim 13, Burd and Chui are silent in teaching wherein the start identifier comprises an even number and the end identifier comprises an odd number, wherein the value of the end identifier is greater than the value of the start identifier." Nonetheless, the Office (*Id.*) asserts...

However, it would have been obvious to sequentially number the identifiers (same thing as the start identifier comprises an even number and the end identifier comprises an odd number, wherein the value of the end identifier is greater than the value of the start identifier) because numbering the identifiers in sequence would make the identifier easier to track.

The Office does not state that it is taking Official Notice regarding the start identifier comprising an even number and the end identifier comprising an odd number, wherein the value of the end identifier is greater than the value of the start identifier. Nonetheless, taking Official Notice with respect to claim 13 would be inappropriate because the subject matter is not capable of instant and unquestionable demonstration as being well-known. MPEP §2144.03 A. states (underlining added for emphasis)...

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

Further, MPEP §2144.03 B. states (underlining added for emphasis)...

If Official Notice Is Taken of a Fact, Unsupported by Documentary Evidence, the Technical Line of Reasoning Underlying a Decision To Take Such Notice Must Be Clear and Unmistakable

Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is “basic knowledge” or “common sense” to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection). .

The Office fails to provide an adequate technical line of reasoning, as required when taking Official Notice without documentary support. For example, the Office does not provide any support for the assertion that including a start identifier comprising an even number and an end identifier comprising an odd number would make the identifier easier to track. Further, the Office does not provide a reason why the identifiers allegedly disclosed by Burd et al. would need to be tracked. Additionally, the Office also does not indicate how this result would be achieved or that such a practice was well-known.

For at least these reasons, the subject matter of claim 13 is patentable over the identified combination of Burd et al., Chui, and the asserted technical facts. Further, claims 31 and 50 include subject matter similar to that discussed with respect to claim 13. Therefore, claims 31 and 50 are allowable for at least the reasons discussed with respect to claim 13.


Concluding Comments

The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the above arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claim or other claims.

In view of the above remarks, claims 9, 11-13, 15, 17, 18, 27, 29-31, 33, 35, 36, and 47-53 should be in condition for allowance, and a formal notice of allowance is respectfully requested. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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